

## **ALTERNATIVE DISPUTE RESOLUTION PROVIDERS CERTIFICATION ACT**

### **58-39a-1. Short title.**

This chapter is known as the "Alternative Dispute Resolution Providers Certification Act."

### **58-39a-2. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) (a) "Alternative dispute resolution" or "ADR" means the provision of an alternative system for settling conflicts between two or more parties, which operates both independent of or as an adjunct to the judicial-litigation system, through the intervention of a qualified neutral person or persons who are trained to intercede in and coordinate the interaction of the disputants in a settlement process.
- (b) "Alternative dispute resolution" or "ADR" includes arbitration, mediation, conciliation, negotiation, mini-trial, moderated settlement conference, neutral expert fact-finding, summary jury trial, and use of special masters and related processes in civil disputes.
- (2) "Board" means the Alternative Dispute Resolution Providers Certification Board created in Section 58-39a-3.
- (3) (a) "Certified dispute resolution provider" or "certified ADR provider" means a person providing services as a mediator, negotiator, conciliator, or arbitrator who has voluntarily qualified for certification and is certified under this act or whose certification by another state is recognized by the division in collaboration with the board.
- (b) Only Subsection 58-1-501(1)(e) applies to a certified dispute resolution provider or a certified ADR provider.
- (4) "Dispute resolution provider" means a person, other than a judge acting in his official capacity, who holds himself out to the public as a qualified neutral person trained to function in the conflict-solving process using the techniques and procedures of negotiation, conciliation, mediation, arbitration, mini-trial, moderated settlement conference, neutral expert fact-finding, summary jury trial, special masters, and related processes.
- (5) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes any one or more of the following:
  - (a) providing alternative dispute resolution services if there are reasonable grounds to believe any parties to the procedure might affect the impartiality of the ADR provider; and
  - (b) failure to clearly define the services to be provided, the rules of conduct to govern, the criteria to be applied, or the applicable fees charged.

### **58-39a-3. Board - Composition - Duties.**

- (1) There is created an Alternative Dispute Resolution Providers Certification Board consisting of seven members who have a demonstrated interest in ADR. The board shall be established by August 1, 1991.
  - (a) No more than three members may represent any one profession.
  - (b) The board shall include one attorney, two judges, and four members of the general public who have a demonstrated interest in ADR.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201 except number of members and qualifications are governed by this section.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203 as applicable to certification.

**58-39a-4. Certification and recognition of certification by other states.**

- (1) The division shall issue to individuals qualified under the provisions of this chapter a certificate in the appropriate types of ADR provider as specified under Title 58, Chapter 39a.
- (2) The division in collaboration with the board shall establish standards and procedures for authorization of ADR providers certified in other states to practice in Utah.

**58-39a-5. Qualifications for certification.**

Applicants for certification as an alternative dispute resolution provider shall:

- (1) submit an application in a form as prescribed by the division;
- (2) pay a fee as determined by the department under Section 63-38-3.2;
- (3) be of good moral character; and
- (4) complete a program of education or training, or both, in ADR or have demonstrated sufficient experience in ADR, as determined by the division in collaboration with the board.

**58-39a-5.5. Term of certificate - Expiration - Renewal.**

- (1) Each certificate issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) Each certificate automatically expires on the expiration date shown on the certificate unless renewed by the certified ADR provider in accordance with Section 58-1-308.

**58-39a-6. Grounds for denial of certificate - Disciplinary proceedings.**

Grounds for refusal to issue a certificate to an applicant, for refusal to renew the certificate of a certified ADR provider, to revoke, suspend, restrict, or place on probation the certificate of a certified ADR provider, to issue a public or private reprimand to a certified ADR provider, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

**ALTERNATIVE DISPUTE RESOLUTION  
PROVIDERS CERTIFICATION ACT**

**Title 58, Chapter 39a  
Utah Code Annotated 1953  
As Amended by  
Session Laws of Utah 1995**

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